

JS 44 (Rev. 12/07) (CAND Rev 1/10)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

LARRY CAMPBELL

(b) County of Residence of First Listed Plaintiff SAN FRANCISCO
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

SEE ATTACHED

DEFENDANTSHILL PHYSICIANS MEDICAL GROUP, INC., dba PHYSICIANS
INTEGRATED MEDICAL GROUP, INC.**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	PROPERTY RIGHTS	400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury — Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assauk, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 450 Commerce	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 893 Environmental Matters
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 900 Appeal of Fee Determination
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> Under Equal Access to Justice
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	
			<input type="checkbox"/> 465 Other Immigration Actions	
FEDERAL TAX SUITS				
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS –Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court |
|---|---|--|

Transferred from

- | | |
|--|---|
| <input type="checkbox"/> 4 Reinstate or Reopened | <input type="checkbox"/> 5 another district (specify) |
|--|---|

- | |
|---|
| <input type="checkbox"/> 6 Multidistrict Litigation |
|---|

Appeal to District

- | |
|---|
| <input type="checkbox"/> 7 Judge from Magistrate Judgment |
|---|

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Fair Credit Reporting Act, 15 U.S.C. & 1581 et seq.

Brief description of cause:

Violation of FCRA requirements re use of credit report by employers

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND \$ 20,000 +
UNDER F.R.C.P. 23CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY****PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE
"NOTICE OF RELATED CASE".****IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)
(PLACE AND "X" IN ONE BOX ONLY)** SAN FRANCISCO/OAKLAND SAN JOSE EUREKADATE
8/18/2011

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

ATTACHMENT TO CIVIL COVER SHEET
Question 1-c

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FILED

AUG 18 2011

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

ISS

9G

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12 Attorneys for Plaintiff,
LARRY CAMPBELL

14
15 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
San Francisco/Oakland Division

MEJ

ADR

16
17 LARRY CAMPBELL, : Case No. C11-04041
18 Plaintiff, : COMPLAINT FOR VIOLATIONS
19 v. : OF THE FAIR CREDIT
REPORTING ACT AND STATE
LAW
20 :
21 HILL PHYSICIANS MEDICAL : (DEMAND FOR JURY TRIAL)
GROUP, INC. d/b/a :
22 PHYSICIANS INTEGRATED :
MEDICAL GROUP, INC., :
23 :
24 Defendant. :
25 :
26 :
27 :
28 :

1 COMES NOW the Plaintiff Larry Campbell (hereafter, "Campbell" or "Plaintiff"), by
2 counsel, on behalf of himself and all others similarly situated, and as for his Complaint against
3 the Defendant, he alleges as follows:

4 **PRELIMINARY STATEMENT**

5 1. This action is brought under the Federal Fair Credit Reporting Act (FCRA), 15
6 U.S.C. §1681, *et seq.* The FCRA imposes on employers that use a background check or other
7 consumer report regarding an employee or job applicant several important procedural
8 requirements designed to protect consumers like Plaintiff. Plaintiff applied for a job at Defendant
9 and Defendant used his consumer report that it obtained from SentryLink, LLC, a consumer
10 reporting agency, to rescind its offer to hire Plaintiff. In doing so, Defendant failed to comply
11 with the procedural protections and requirements imposed on it by the FCRA.

12 **JURISDICTION**

13 2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1367 and 15 U.S.C.
14 § 1681(p). Venue is proper in this Court under 28 U.S.C. § 1391(b) as the Defendant regularly
15 does business in the district and division, this is where the Plaintiff resides and this is the district
16 and division into which Defendant was required to provide a proper adverse action notice

17 **PARTIES**

18 3. The Plaintiff is a natural person and a "consumer" as defined by the FCRA.
19 4. Defendant Hill Physicians Medical Group, Inc. d/b/a Physicians Integrated
20 Medical Group, Inc. (hereafter, "PIMG") is a domestic corporation. At all times relevant hereto, it
21 was a "user" of the consumer report of Plaintiff, as governed by the FCRA.

22 **STATEMENT OF FACTS**

23 5. Plaintiff applied for employment with PIMG in August of 2009.
24 6. On or about August 19, 2009, PIMG obtained and used one or more consumer
25 reports regarding the Plaintiff from one or more third parties, including SentryLink, LLC. It did
26 so without ever providing a disclosure to the Plaintiff, in a document that consisted solely of the
27 disclosure, informing the Plaintiff that a consumer report would be obtained for employment
28 purposes.

1 7. The consumer report that SentryLink, LLC supplied to PIMG regarding the
2 Plaintiff contained numerous inaccuracies regarding criminal convictions, alias information, and
3 personal identifying information including, but not limited to, the false and outrageous assertions
4 that Plaintiff had been convicted of multiple counts of sexual assault and also that he had failed to
5 register as a sex offender in Arizona.

6 8. Plaintiff has never been convicted of sexual assault or failure to register as a sex
7 offender. Plaintiff has been a resident of San Francisco since 1992 and is not a criminal.

8 9. After obtaining and using the Plaintiff's consumer report supplied by SentryLink,
9 LLC, and before providing Plaintiff with a copy of his report, or any description of his rights
10 under the FCRA, PIMG denied his employment application on the basis of the report and
11 informed Plaintiff specifically that the CEO of PIMG was "uncomfortable with him" as a result of
12 the information provided in the consumer report.

13 10. Thereafter, Plaintiff notified PIMG that the information contained in the consumer
14 report was not accurate, that Plaintiff was not a criminal, and that he had never resided in
15 Arizona.

16 11. PIMG refused to interact with Plaintiff thereafter, directly rebuffing his substantial
17 efforts to clear his name. Defendant refused to honor the employment offer that it had previously
18 made to the Plaintiff.

19 12. PIMG failed to provide Plaintiff with a copy of the consumer report or written
20 summary of his rights under the FCRA before or even at the time it informed him that it had
21 withdrawn the offer of employment based in whole or in part on the report results.

22 13. PIMG also failed to provide Plaintiff with any of the notices required by
23 §1681b(b) of the FCRA.

24 14. Section 1681b(b)(2) of the FCRA regulates the conduct of any person who uses a
25 "consumer report" for an employment purpose. It states, in relevant part:

26 [A] person may not procure a consumer report, or cause a consumer report to be
27 procured, for employment purposes with respect to any consumer, unless—
28

1 (i) a clear and conspicuous disclosure has been made in writing to the consumer at
2 any time before the report is procured or caused to be procured, in a document that
3 consists solely of the disclosure, that a consumer report may be obtained for
employment purposes; and

4 (ii) the consumer has authorized in writing (which authorization may be made on
the document referred to in clause (i)) the procurement of the report by that person.

5
6 15. Section 1681b(b)(2) thus limits the circumstances and process by which an
7 employer may obtain and use a consumer report for an employment purpose. Use for such a
8 purpose is more restrictive than other uses, such as for credit. The “permission to obtain a report”
9 form must be a stand alone document with no other matters contained therein.

10 16. Section 1681b(b)(3)(A) of the FCRA regulates the conduct of any person who uses
11 a “consumer report” to take an adverse action against any employees or prospective employees as
12 follows:

13 Except as provided in subparagraph (B) [in cases of a consumer applying for a
14 position over which the Secretary of Transportation may establish qualifications],
15 in using a consumer report for employment purposes, before taking any adverse
action based in whole or in part on the report, the person intending to take such
adverse action shall provide to the consumer to whom the report relates –

- 16 (i) a copy of the report; and
17 (ii) a description in writing of the rights of the consumer under this
18 subchapter, as prescribed by the Federal Trade Commission under
section 1681g(c)(3) of this title.

19 17. The purpose of §1681b(b)(3)(A) is to provide a prospective or current employee a
20 sufficient amount of time to review the consumer report, note any inaccuracies and to notify the
21 prospective employer of these inaccuracies before an adverse action is taken.

22 18. PIMG failed to provide a copy of the consumer report in a sufficient amount of
time before it took the adverse action to allow Plaintiff to discuss the report with PIMG or
otherwise respond before the adverse action was taken.

23 19. Upon information and belief, it is PIMG’s standard hiring practice to rely on
24 consumer reports, and when the results are unsatisfactory, to fire or refuse to hire/fire people
25 without the statutory disclosure or written authorization, without giving them any advance notice
26 of the adverse action, without first providing them with a copy of their consumer report, without

providing them with a summary of their rights under the FCRA before taking the adverse action, and without providing most of the oral, written or electronic notices required by the FCRA.

20. PIMG acted willfully. PIMG knew or should have known about its legal obligations under the FCRA. These obligations are well established in the plain language of the FCRA and in the promulgations of the Federal Trade Commission.

21. Despite knowing of these legal obligations, PIMG acted consciously in breaching its known duties and depriving Plaintiff and other members of the class of their rights under the FCRA.

COUNT ONE: VIOLATION OF THE FCRA § 1681b(b)(2)(A)

22. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

23. The “Class”. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff brings this count for himself and on behalf of a class (the “Class”) initially defined as follows:

All natural persons residing in the United States (including all territories and other political subdivisions of the United States) who were the subject of a consumer report obtained by Defendant for an employment purpose during the period provided at 15 U.S.C. § 1681p through the filing of this Complaint.

24. Numerosity. Fed. R. Civ. P. 23(a)(1). Upon information and belief, the Plaintiff alleges that the Class members are so numerous that joinder of all is impractical. The names and addresses of the Class members are identifiable through documents maintained by PIMG, and the Class members may be notified of the pendency of this action by published and/or mailed notice.

25. Existence and Predominance of Common Questions of Law and Fact. Fed. R. Civ. P. 23(a)(2). Common questions of law and fact exist as to all members of the Class. These questions predominate over the questions affecting only individual members. These common legal and factual questions include, among other things:

- a. Whether Defendant's procedures and forms for employment applications violate § 1681b(b)(2)(A) by failing to make a "clear and conspicuous" disclosure.
 - b. Whether Defendant's procedures and forms for employment applications violate § 1681b(b)(2)(A) by failing to make the required disclosure "in a document that consists solely of the disclosure".

1 c. Whether Defendant's procedures and forms for employment applications violate
 2 §1681b(b)(2)(A) by causing Defendant to procure a consumer report in the
 3 absence of providing the legally mandated disclosure to consumers.

4 d. Whether Defendant's noncompliance of the FCRA was "willful" – whether it was
 reckless.

5 26. Typicality. Fed. R. Civ. P. 23(a)(3)). Plaintiff's claims are typical of the claims of
 6 each Class member. Plaintiff would only seek individual or actual damages if class certification
 7 is denied. In addition, Plaintiff is entitled to relief under the same causes of action and upon the
 8 same facts as the other members of the Class.

9 27. Adequacy. Fed. R. Civ. P. 23(a)(4). Plaintiff is an adequate representative of the
 10 Class because his interests coincide with, and are not antagonistic to, the interests of the members
 11 of the Class he seeks to represent, he has retained counsel competent and experienced in such
 12 litigation, and he intends to prosecute this action vigorously. Plaintiff and his Counsel will fairly
 13 and adequately protect the interests of members of the Class.

14 28. Superiority. Fed. R. Civ. P. 23(b)(3). A class action is superior to other available
 15 methods for fair and efficient adjudication of the controversy. The statutory and punitive
 16 damages sought by each member are such that individual prosecution would prove burdensome
 17 and expensive given the complex and extensive litigation necessitated by Defendant's conduct. It
 18 would be virtually impossible for the members of the Class individually to redress effectively the
 19 wrongs done to them. Even if the members of the Class themselves could afford such individual
 20 litigation, it would be an unnecessary burden on the courts. Furthermore, individualized litigation
 21 presents a potential for inconsistent or contradictory judgments and increases the delay and
 22 expense to all parties and to the court system presented by the complex legal and factual issues
 23 raised by Defendant's conduct. By contrast, the class action device will result in substantial
 24 benefits to the litigants and the Court by allowing the Court to resolve numerous individual
 25 claims based upon a single set of proof in just one case.

26 29. Defendant violated the FCRA, § 1681b(b)(2)(A) by obtaining and using the
 27 consumer reports of the Plaintiff and member of the putative class for an employment purpose,
 28 but without complying with the requirements of this provision.

1 30. As a result of these FCRA violations, PIMG is liable to Plaintiff and to each
2 FCRA Class Member, for statutory damages from \$100.00 to \$1,000.00 pursuant to 15 U.S.C.
3 §1681n(a)(1)(A), plus punitive damages pursuant to 15 U.S.C. §1681n(a)(2) for each of the
4 violations alleged herein, and for attorneys fees and costs pursuant to §1681n and §1681o.

5 31. In the alternative to the Plaintiff's allegations that these violations were willful, he
6 alleges that the violations were negligent and seeks issue certification of that issue and
7 appropriate remedy, if any, under 15 U.S.C. §1681o.

8 32. Plaintiff and Class Members are entitled to equitable relief against PIMG requiring
9 its compliance with the FCRA in all future instances and/or offering (re-)employment to Plaintiff
10 and class members, and enjoining future violations of the FCRA.

11 **COUNT TWO: VIOLATION OF THE FCRA § 1681b(b)(3)(A)**

12 33. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth
13 at length herein.

14 34. The "Pre-Adverse Action Notice Sub-Class". Pursuant to Rule 23 of the Federal
15 Rules of Civil Procedure, Plaintiff brings this count for himself and on behalf of a sub-class (the
16 "Pre-Adverse Action Notice Sub-Class") initially defined as follows:

17 All natural persons residing in the United States (including all territories and other
18 political subdivisions of the United States), (a.) who applied for an employment
19 position with Defendant or any of its subsidiaries, (b.) as part of this application
20 process were the subject of a consumer report obtained by Defendant, (c.) where
21 that consumer report contained a criminal public record or credit item that would
22 disqualify the person from such position under Defendant's hiring policies, (d.)
23 which consumer was not then approved or hired for the position, (e.) and to whom
24 Defendant did not provide a copy of the consumer report and other disclosures
25 stated at 15 U.S.C. § 1681b(b)(3)(A)(ii) at least five business days before the date
26 the employment decision is first noted in Defendant's records.

27 35. Numerosity. Fed. R. Civ. P. 23(a)(1). Upon information and belief, the Plaintiff
28 alleges that the Sub-Class members are so numerous that joinder of all is impractical. The names
and addresses of the Sub-Class members are identifiable through documents maintained by the
Defendant, and the Sub-Class members may be notified of the pendency of this action by
published and/or mailed notice.

1 36. Existence and Predominance of Common Questions of Law and Fact. Fed. R.
2 Civ. P. 23(a)(2). Common questions of law and fact exist as to all members of the Sub-Class.
3 These questions predominate over the questions affecting only individual members. These
4 common legal and factual questions include, among other things:

- 5
- 6 a. Whether Defendant provided a copy of the consumer report to the applicant or
7 employee before declining to hire or discharging the applicant or employee based
8 on the results thereof (§1681b(b)(3)(A)(i));
 - 9 b. Whether Defendant provided a copy of a summary of the applicant or employee's
10 rights under the FCRA before declining to hire or discharging the applicant or
11 employee (§ 1681b(b)(3)(A)(ii));
 - 12 c. Whether Defendant reckless, knowingly or intentionally acted in conscious
13 disregard of the rights of the consumer;
 - 14 d. Whether the conduct alleged violates the FCRA.

15 37. Typicality. Fed. R. Civ. P. 23(a)(3). Plaintiff's claims are typical of the claims of
16 each Sub-Class member. Plaintiff would only seek individual or actual damages if class
17 certification is denied. In addition, Plaintiff is entitled to relief under the same causes of action
18 and upon the same facts as the other members of the Sub-Class.

19 38. Adequacy. Fed. R. Civ. P. 23(a)(4). Plaintiff is an adequate representative of the
20 Sub-Class because his interests coincide with, and are not antagonistic to, the interests of the
21 members of the Sub-Class he seeks to represent, he has retained counsel competent and
22 experienced in such litigation, and he intends to prosecute this action vigorously. Plaintiff and his
23 Counsel will fairly and adequately protect the interests of members of the Sub-Class.

24 39. Superiority. Fed. R. Civ. P. 23(b)(3). A class action is superior to other available
25 methods for fair and efficient adjudication of the controversy. The statutory and punitive
26 damages sought by each member are such that individual prosecution would prove burdensome
27 and expensive given the complex and extensive litigation necessitated by Defendant's conduct. It
28 would be virtually impossible for the members of the Sub-Class individually to redress effectively
29 the wrongs done to them. Even if the members of the Sub-Class themselves could afford such

1 individual litigation, it would be an unnecessary burden on the courts. Furthermore,
2 individualized litigation presents a potential for inconsistent or contradictory judgments and
3 increases the delay and expense to all parties and to the court system presented by the complex
4 legal and factual issues raised by Defendant's conduct. By contrast, the class action device will
5 result in substantial benefits to the litigants and the Court by allowing the Court to resolve
6 numerous individual claims based upon a single set of proof in just one case.

7 40. Defendant willfully violated the FCRA, 15 U.S.C. §1681b(b)(3)(A) as to the Pre-
8 Adverse Action Sub-Class, because it failed to provide a copy of the consumer report used to
9 make an employment decision and related disclosures to Plaintiff and all other similarly situated
10 applicants and employees before taking an adverse action that was based in whole or in part on
11 that report; and/or by doing so at least five business days before taking such action.

12 41. As a result of these FCRA violations, Defendant is liable to Plaintiff and to each
13 Pre-Adverse Action Sub-Class Member, for statutory damages from \$100.00 to \$1,000.00
14 pursuant to 15 U.S.C. §1681n(a)(1)(A), plus punitive damages pursuant to 15 U.S.C.
15 §1681n(a)(2) for each of the violations alleged herein, and for attorneys fees and costs pursuant to
16 §1681n and §1681o.

17 42. In the alternative to the Plaintiff's allegations that these violations were willful, she
18 alleges that the violations were negligent and seeks issue certification of that issue and
19 appropriate remedy, if any, under 15 U.S.C. §1681o.

20 43. Plaintiff and Pre-Adverse Action Sub-Class Members are entitled to equitable
21 relief against PIMG requiring its compliance with the FCRA in all future instances and/or re-
22 employment of Plaintiff, and enjoining future violations of the FCRA.

23
24 **COUNT THREE: VIOLATION OF CALIFORNIA CIVIL CODE §1786.12**
(Plaintiff Campbell Individually)

25 44. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth
26 at length herein.

27 45. The Defendant failed to comply with the additional requirements applicable to
28 California residents as set forth in California Civil Code § 1786.12.

1 46. As a result of these violations of California law, the Defendant is liable to the
2 Plaintiff pursuant to California Civil Code § 1786.50 in the amount of the greater of his actual
3 damages or \$10,000, such punitive damages as the jury may award upon a finding that the
4 violation was grossly negligent or willful, and his attorneys fees and costs incurred in the
5 prosecution of this action.

6 47. Plaintiff is further entitled to declaratory and injunctive relief as the Court deems
7 proper and appropriate, including, but not limited to, an order requiring the Defendant's
8 compliance with California law with respect to all applicants.

9 WHEREFORE, Plaintiff and the Class Members pray for relief as follows:

- 10 1. an order certifying the proposed FCRA class and sub-class herein under Federal
11 Rule 23 and appointing Plaintiff and his undersigned counsel of record to represent same;
12 2. the creation of a common fund available to provide notice of and remedy
13 Defendants' FCRA violations;
14 3. statutory and punitive damages; injunctive relief as pled;
15 4. attorneys fees, expenses and costs;
16 5. pre-judgment and post-judgment interest as provided by law;
17 6. and such other relief the Court does deem just, equitable and proper.

18 **TRIAL BY JURY IS DEMANDED.**

19
20 Date: August 18, 2011

By: 
Robert M. Bramson,
Attorneys for Plaintiff

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